

Declaration copy from parent for:  
 Serial No.: 10/712,760  
 Docket No.: HTEC-008/04US

Docket No.  
**MJA-10703/03**

# Declaration and Power of Attorney For Patent Application

## English Language Declaration

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

the specification of which

(check one)

☐ is attached hereto.

☒ was filed on 4/23/2002 as United States Application No. or PCT International  
 Application Number 10/128,105  
 and was amended on \_\_\_\_\_

(if applicable)

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, Section 119(a)-(d) or Section 365(b) of any foreign application(s) for patent or inventor's certificate, or Section 365(a) of any PCT International application which designated at least one country other than the United States, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate or PCT International application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

(Number)

(Country)

(Day/Month/Year Filed)

☐

I hereby claim the benefit under 35 U.S.C. Section 119(e) of United States provisional application(s) listed below:

<u>60/073,812</u>	<u>2/5/1998</u>
(Application Serial No.)	(Filing Date)
<u>60/104,983</u>	<u>10/20/1998</u>
(Application Serial No.)	(Filing Date)
<u>                    </u>	<u>                    </u>
(Application Serial No.)	(Filing Date)

I hereby claim the benefit under 35 U. S. C. Section 120 of any United States application(s), or Section 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. Section 112, I acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, C. F. R., Section 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

<u>09/601,589</u>	<u>8/4/2000</u>	<u>PENDING</u>
(Application Serial No.)	(Filing Date)	(Status)
		(patented, pending, abandoned)
<u>                    </u>	<u>                    </u>	<u>                    </u>
(Application Serial No.)	(Filing Date)	(Status)
		(patented, pending, abandoned)
<u>                    </u>	<u>                    </u>	<u>                    </u>
(Application Serial No.)	(Filing Date)	(Status)
		(patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

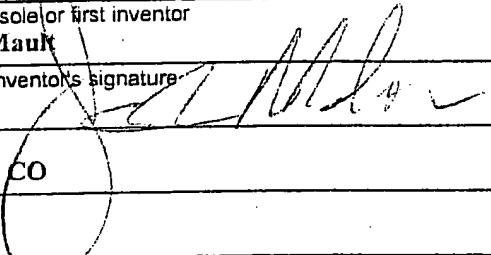
POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (list name and registration number)

Ernest L. Gifford (Reg. No. 20,644)  
Allen M. Krass (Reg. No. 18,277)  
Irvin L. Groh (Reg. No. 17,505)  
Douglas W. Sprinkle (Reg. No. 27,394)  
Douglas J. McEvoy (Reg. No. 34,424)  
Pohn G. Posa (Reg. No. 37,424)  
Mark D. Schneider (Reg. No. 43,906)  
Thomas E. Anderson (Reg. No. 31,318)  
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Avery N. Goldstein (Reg. No. 39,204)  
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Beverly M. Bunting (Reg. No. 36,072)

Send Correspondence to: Beverly M. Bunting  
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280 N. Old Woodward Avenue, Ste. 400  
Birmingham, MI 48009

Direct Telephone Calls to: (name and telephone number)  
Beverly M. Bunting (248) 647-6000

Full name of sole or first inventor <b>James R. Maul</b>	
Sole or first inventor's signature 	Date <b>7-1-2002</b>
Residence <b>Evergreen, CO</b>	
Citizenship <b>US</b>	
Post Office Address <b>1580 Blakcomb Court</b>	
<b>Evergreen, CO 80439</b>	

Full name of second inventor, if any	
Second inventor's signature	Date
Residence	
Citizenship	
Post Office Address	



Attorney Docket No: HTEC-008/04US

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of James R. MAULT

Serial No.: 10/712,760

Examiner: Unassigned

Confirmation No.: 7394

Art Unit: 3736

Filed: November 12, 2003

For: **METABOLIC CALORIMETER EMPLOYING RESPIRATORY GAS  
ANALYSIS**

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**POWER BY ASSIGNEE  
AND STATEMENT UNDER 37 C.F.R. §3.73(b)**

The Assignee of the entire right, title, and interest in the above-identified application hereby grants the registered practitioners of Cooley Godward LLP included in the Customer Number provided below power to act, prosecute, and transact all business in the U.S. Patent and Trademark Office in connection with this application, any applications claiming priority to this application, and any patents issuing therefrom.

The Assignee certifies that to the best of its knowledge and belief it is the owner of the entire right, title, and interest in and to the above-identified application as evidenced by:

- ☐ An assignment document, a copy of which is enclosed herewith; and
- ☒ An assignment previously recorded in the U.S. Patent and Trademark Office at Reel 013181, Frame 0053.

Please direct all telephone calls and correspondence to:

Cooley Godward LLP  
ATTN: Patent Group  
Five Palo Alto Square

Attorney Docket No. HTEC-008/04US

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3000 El Camino Real  
Palo Alto, CA 94306-2155  
Tel: (650) 843-5000  
Fax: (650) 857-0663

CUSTOMER NUMBER: **23419**

The undersigned (whose title is supplied below) is empowered to sign this statement on behalf of the Assignee.

Date:

6/10/2004

Signature:

Edwin M. Pearce

Name:

Edwin M. Pearce

Title:

Vice President Operations

Company:

HEALTHETECH, INC.

523 Park Point Drive, Golden  
Colorado 80401



Attorney Docket No. HTEC-008/04US

PATENT

Applicant or Patentee: James R. MAULT

Serial No.: 10/712,760

Patent No.:

Filed: November 12, 2003

Issued:

For: **METABOLIC CALORIMETER EMPLOYING RESPIRATORY GAS ANALYSIS****ASSERTION OF ENTITLEMENT TO SMALL ENTITY STATUS UNDER  
37 C.F.R. §1.27 - SMALL BUSINESS CONCERN**

I hereby declare that I am:

- ☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

Name of Small Business Concern: **HEALTHETECH, INC.**  
Address of Small Business Concern: **523 Park Point Drive, Golden  
Colorado 80401**

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 C.F.R. §121 for purposes of paying reduced fees under 35 U.S.C. §§41(a) and (b), in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both;

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention entitled and described in:

- ☐ the specification filed herewith;  
☒ the application identified above; or  
☐ the patent identified above;

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as an independent inventor under 37 C.F.R. §1.27(a)(1) or by any concern which would not qualify as a small business concern under 37 C.F.R. §1.27(a)(2) and 13 C.F.R. §121 or a nonprofit organization under 37 C.F.R. §1.27(a)(3):

\*NOTE: Please obtain separate Assertions of Entitlement to Small Entity Status from each named person, concern or organization having rights to the invention averring to their status as small entities.

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Name:

Address:

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. §1.27(g))

Signature

Edwin M. Pearce

Date

6/10/2004

Name of Person Signing

Edwin M. Pearce

Title of person other than owner

Vice President Operations

Address of person signing

**HEALTHETECH, INC.**  
523 Park Point Drive, Golden  
Colorado 80401